

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM No.M-33256 of 2014 (O&M)
Date of decision: January 21, 2016.

Dinesh Kumar

... **Petitioner**

v.

State of Haryana and another

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. Arun Yadav, Advocate for the petitioner.

Mr. M.S. Sidhu, Additional Advocate General, Haryana.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *Whether to be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral):

The petitioner seeks the quashing of FIR (Annexure P-5) vide which he was booked under Section 420 IPC read with Sections 15(2) & 15(3) of the Indian Medical Council Act, 1956 on the ground that he was found practicing in allopathic medicines without holding any degree or diploma.

The petitioner has placed on file certificate (Annexure P-1) issued by the State Ayurvedic and Unani Medical Council, Bihar vide which he was registered as *Vaidh* under the Bihar Development of Ayurvedic and Unani System of Medicine Act, 1951 on 26.6.1998. The order of the Civil Surgeon dated 13.10.2005 (Annexure P-3) shows that the Civil Surgeon had informed the petitioner that as per

the order of Supreme Court bearing Serial No.2782, he was permitted to practice in Haryana. The matter has been examined by this Court in Uttam Kumar Dutta v/s State of Haryana (Crl. Revision No.1295 of 2001), decided on 9.9.2008 as well as Phul Singh v/s State of Haryana, 1986(1) RCR (Crl.) 532, wherein this Court observed as under:-

“It is not challenged by the prosecution that the petitioner holds a certificate of registration from the State Ayurvedic and Unani Medical Council, Bihar, and was duly registered as such in Bihar. By virtue of Schedule 1 to the Punjab Ayurvedic and Unani Practitioners Act, 1963, everybody who is holding a degree or diploma of any Ayurvedic or Unani college recognized by the faculty within Punjab or outside would be eligible for being registered as a medical practitioner in the State of Punjab and Haryana. In view of the aforesaid rule, the petitioner comes within the definition of registered medical practitioner and as such he was entitled to keep medicines. Consequently, he cannot be held liable for violation of section 18(c) of the Drugs and Cosmetics Act. The petition is allowed and the conviction and sentence of the petitioner are set aside. The fine, if recovered, would be refunded to the petitioner.”

The judgment was followed by this Court in Uttam Kumar Dutta's case (supra). In view of the said authoritative pronouncements of this Court as well as the permission granted by the Civil Surgeon, the FIR No.313 dated 9.8.2013 under Sections 420 IPC read with Sections 15(2) & 15(3) of the Indian Medical Council Act, 1956, registered at Police Station Rewari City is nothing

but misuse of the process of law and the same is accordingly quashed along with all the consequential proceedings arising therefrom.

The petition stands allowed.

January 21, 2016.
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[Kuldip Singh]
Judge